

C. DUKES SCOTT
EXECUTIVE DIRECTOR

1441 Main Street, Suite 300
Columbia, SC 29201



DAN E. ARNETT
CHIEF OF STAFF

Main Line (803) 737-0800
Legal Department: (803) 737-0877

February 23, 2007

FLORENCE P. BELSER
GENERAL COUNSEL

VIA E-FILING & HAND DELIVERY

Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Dr., Suite 100
Columbia, SC 29210

Re: Petition of the Office of Regulatory Staff to Require ConnectNow! Telecomm,
LLC to Issue Refunds
Docket No. 2006-328-C

Dear Mr. Terreni:

Enclosed please find the original and one copy of the Direct Testimony and Exhibits of James M. McDaniel, Bonnie Tharpe and Perry Mancill in the above referenced docket.

Please note that the attached documents are exact duplicates, with the exception of the form of the signature, of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions.

By copy of this letter we are also serving all other parties of record. Please let me know if you have any questions.

Sincerely,

Nanette S. Edwards

NSE/pjm
Enclosures

cc: ConnectNow! Telecomm, LLC

**THE OFFICE OF REGULATORY STAFF
DIRECT TESTIMONY AND EXHIBITS
OF
JAMES M. MCDANIEL**



DOCKET NO. 2006-328-C

**Petition of the Office of Regulatory Staff to
Require ConnectNow! Telecomm, LLC to Issue
Refunds**

February 23, 2007

**TESTIMONY OF JAMES M. MCDANIEL FOR
THE OFFICE OF REGULATORY STAFF
DOCKET NO. 2006-328-C**

**IN RE: PETITION OF OFFICE OF REGULATORY STAFF TO REQUIRE
CONNECTNOW! TELECOM LLC TO ISSUE REFUNDS**

Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.

A. My name is James M. McDaniel. I am employed by the Office of Regulatory Staff (“ORS”) as a Program Manager. My business address is 1441 Main Street, Suite 300, Columbia, South Carolina, 29201.

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND YOUR BUSINESS EXPERIENCE.

A: I received a B.S. Degree in Engineering from the University of South Carolina in December of 1975. I was employed by the Public Service Commission of South Carolina in February of 1976. I worked for over 28 years in the Commission’s Utilities Department. I was employed by the Office of Regulatory Staff in September 2004 to work in its Telecommunications area. Most of my career has been devoted to the regulation of the telecommunications industry in South Carolina.

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
2 **PROCEEDING?**

3 A. The purpose of my testimony is to: (1) provide the Commission with a description
4 of the events that led to the disconnection of ConnectNow! Telecom LLC (herein
5 after referred to as “ConnectNow” or the “Company”) by BellSouth
6 Telecommunications, Inc. (“BellSouth”); (2) describe the efforts undertaken by
7 ORS to determine the amount of refunds owed by ConnectNow; and (3)
8 recommend preventative measures for the future.

9 **Q. PLEASE IDENTIFY EXHIBIT JMM-1 ATTACHED TO YOUR PREFILED**
10 **TESTIMONY.**

11 A. Exhibit JMM-1 contains affidavits from retail consumers of ConnectNow who are
12 not physically and/or financially able to attend this hearing in person.

13 **Q. PLEASE DESCRIBE THE EVENTS THAT LED TO THE**
14 **DISCONNECTION OF CONNECTNOW.**

15 A. According to BellSouth, ConnectNow failed to pay BellSouth for
16 telecommunications services used by ConnectNow to provision services to its
17 customers. When ORS learned that ConnectNow was in default on payment for
18 services to BellSouth, the ORS, understanding that consumers could potentially
19 experience interruption of their telephone service, contacted ConnectNow to
20 determine the company’s intent with regard to paying BellSouth. At first, the
21 Company indicated that it intended to pay BellSouth. Ultimately, ORS learned
22 that ConnectNow was not able to pay its outstanding balance and the required

1 deposit. Also, during this time, Mr. Carter, the president of ConnectNow relayed to
2 ORS that he was in negotiations to sell the company and/or to seek additional
3 financing. ORS sought additional time from BellSouth in order to provide
4 consumers notification of the impending disconnection of their
5 telecommunications services and to provide consumers an opportunity to migrate
6 to other carriers. Additionally, ORS negotiated with BellSouth to have BellSouth
7 provide an automated notice if technically feasible. A conference call was held
8 with the Commission in which Mr. Carter, counsel for BellSouth and counsel for
9 ORS attended. Mr. Carter agreed to provide automated notice to ConnectNow
10 customers prior to the disconnection date and BellSouth agreed to extend the
11 termination date to October 10, 2006.

12 **Q: WHAT LED ORS TO FILE THE PETITION REQUESTING REFUNDS?**

13 A: ORS received several complaints from ConnectNow agents and retail customers
14 that ConnectNow continued to draft accounts after BellSouth terminated service
15 and in some cases, after the agent had expressly informed ConnectNow to cease
16 and desist from such automatic drafts. (See Testimony of Mr. Perry Mancill).
17 ORS also received reports that ConnectNow collected payments for a full month's
18 service from retail customers but those customers did not receive service.

19 **Q: WHAT AMOUNT OF REFUND IS ORS SEEKING FROM**
20 **CONNECTNOW?**

21 A: ORS has not been able to audit the books and records of ConnectNow.
22 ConnectNow's business offices which were located at 3800 Fernandina Road,

1 Columbia, South Carolina are closed. Therefore, ORS cannot provide the
2 Commission with a specific amount to refund other than the amounts requested
3 from those agents and customers who are either being called as witnesses by ORS
4 or who have provided an affidavit. (See Exhibit JMM-1). However, it is entirely
5 possible that with 11,500 ConnectNow customers in BellSouth territory spending
6 an estimated \$50.00 a month, several hundred thousand dollars were paid by
7 consumers for no service. To give the Commission a sense of the potential
8 impact of this situation, BellSouth began disconnecting ConnectNow's wholesale
9 lines on October 10, 2006. BellSouth reported that there were approximately
10 11,500 lines impacted. If ConnectNow collected \$50 for each of these prepaid
11 local exchange lines through its agents around the first of the month, then the
12 amount collected would have been approximately \$575,000. Adjusting for the
13 fact that the services were terminated on October 10 and using common
14 convention that there are 30 days in a month, the consumers could have
15 potentially forfeited 20 days of service, which results in monetary loss of
16 \$383,000.¹

17 **Q: BASED ON THE TESTIMONY OF THE AGENTS AND THE**
18 **AFFIDAVIT CONTAINED IN EXHIBIT JMM-1, WHAT AMOUNT**
19 **SHOULD BE REFUNDED AT THIS TIME?**

20 **A:** Using the information shared through affidavit and other testimony in this
21 proceeding, the known refund amount is \$6,175.00. However, ORS requests that

¹ ConnectNow's tariffed rate for residential local exchange service is \$50.00.

1 the Commission allow some period of time after the hearing to permit
2 ConnectNow customers to file a request for a refund.

3 **Q. SHOULD ANY MONEY DETERMINED TO BE REFUNDED ACCRUE**
4 **INTEREST?**

5 A. Upon review of the Commission Rules and Regulation, Section 103-623.1., titled
6 “Customer Willfully Overcharged”, states:

7 “If the telecommunications utility has willfully overcharged any
8 customer, the company shall refund the difference, plus interest, as
9 prescribed by the Commission, for the period of time that can be
10 determined that the customer was overcharged.”

11 In this case the willful classification is appropriate. Based on Mr. Mancill’s
12 Testimony, the Company drafted agent accounts on and after the date of
13 disconnection of wholesale services by BellSouth. The Company was aware of
14 the impending disconnection of services by BellSouth prior to October 10, 2006.
15 In fact, the October 10th date was an additional extension of the disconnect date.
16 The purpose of the extension was to allow customer notification of the
17 disconnection of telecommunications service and to allow consumers an
18 opportunity to seek telecommunications services from other carriers to avoid
19 complete loss of service. Therefore, ORS recommends that the Commission order
20 the company make refunds with interest.

21 **Q. WHAT ADDITIONAL ACTION DOES ORS RECOMMEND THAT THE**
22 **COMMISSION TAKE IN THIS PROCEEDING?**

1 A. ORS recommends that the Commission open a generic proceeding to investigate
2 whether a bond or some other form of financial protection could be made available
3 for consumers purchasing *prepaid* telecommunications services.

4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 A. Yes it does.

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2006-328-C

Re: Petition of the Office of)
Regulatory Staff to Require)
ConnectNow! Telecomm, LLC)
To Issue Refunds)
_____)

AFFIDAVIT

PERSONALLY appeared before me, Earnestine Brown, who first being duly sworn, states the following:

1. I am over eighteen (18) years old.
2. I reside at 305 B Pebble Lane, Aiken South Carolina 29801.
3. I am disabled and cannot attend the March 29th hearing regarding ConnectNow.
4. I was a customer of ConnectNow and paid for two months of service but my service was terminated the day after I paid. I paid for two months of service in advance rather than one month to avoid travel.
5. I believe I am owed approximately \$118.00. My monthly service charges were \$59.00.
6. I contacted the Consumer Services division of the Office of Regulatory Staff and lodged a complaint against ConnectNow.

Dated:

Feb. 16, 07

Earnestine Brown
Earnestine Brown

SWORN to before me this 16th day of February 2007

Michelle R Clayton

Notary Public for South Carolina

My Commission Expires: 7/05/2015

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-328-C

Re: Petition of the Office of
Regulatory Staff to Require
ConnectNow! Telecomm, LLC
To Issue Refunds

AFFIDAVIT

PERSONALLY appeared before me, Gloria Smith, who first being duly sworn, states the following:

1. I am over eighteen (18) years old.
2. I reside at 495 Cedar Ridge Road, Darlington SC 29540.
3. I cannot attend the March 29th hearing regarding ConnectNow.
4. I was a customer of ConnectNow and paid for service that I did not receive.
5. I believe I am owed approximately \$68.00.
6. I contacted ConnectNow directly and was promised that they would issue a refund.
7. As of the date of this affidavit, I have not received any such refund.
8. I contacted the Consumer Services division of the Office of Regulatory Staff and lodged a complaint against ConnectNow.

Dated: 2-28-07

Gloria B Smith
Gloria Smith

SWORN to before me this 28 day of February, 2007

Linda Thomas
Notary Public for South Carolina

My Commission Expires: 11-12-2008

Other Withdrawals and Service Fees *continued*

Date	Amount	Description
9/25	59.95	PURCHASE CONNECT TELECOMMUN 09/21 4828540670804 803-7548088 SC 4019Z249000
9/27	300.00	WITHDRAWAL HARTSVILLE MAIN 09/27 104 N FIFTH ST HARTSVILLE SC 4019W009169
9/27	629.17	AUTOMATED DEBIT HOMECOMINGS - D MORTGAGE CO. ID. 1510369458 060927 PPD
9/29	32.95	AUTOMATED DEBIT LIBERTY LIFE POLICY PRM CO. ID. 2570249218 060929 PPD
Total	\$1,486.96	

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